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Supreme Court, U.S.
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No. 05-27

In the Supreme Court of the United States

RICHARD WEBSTER,

Petitioner,

v.

UNITED AUTO WORKERS, LOCAL 51, INTERNATIONAL AUTO WORKERS, ARTHUR BIANCHI, NATHANIEL MARTIN, GIL WOJCIK, ROSALYN GRANT, HOLLY WAINGROW, WILLIAM MICHAEL KIRKSEY, ILLIE WILLIAMS, ROBERT LEE MITCHELL, JAMES MOORE, STEPHEN YOKICH, MAURICE MITCHELL, STAN GEIS, PETE CUTWAY, NATE GOODWIN, AND EUNICE STOKES,

Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether otherwise discipline alleged violative of Sec. 411 (a)(2) and Sec. 411 (a)(5) of 29 U.S. C. 411, the LMRDA, is solely confined to those types specifically enumerated in LMRDA.

2. Whether "otherwise discipline" alleged violative of Sec. 411 (a)(2) and Sec. 411 (a)(5) of 29 U.S. C. 411, the LMRDA, when exacted by the duly elected executive boards or bargaining committees of labor organizations constitutes the opprobrium of the organization or mere ad hoc retaliation not subject to the protections of LMRDA.

PARTIES TO THE PROCEEDINGS AND CORPORATE DISCLOSURE STATEMENT

The parties to the proceedings are set forth in the case caption. Petitioner is not a publicly traded company owning stock.

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OPINIONS BELOW

The United States Court of Appeals for the Sixth Circuit denied Petition for en banc rehearing on March 31, 2005. (App. 1a) The January 12, 2005 panel opinion of the Sixth Circuit is reported at 394 F.3d 436 (6th Cir. 2005). (App. 3a) The November 4, 2003 Opinion and Order of the United States District Court for the Eastern District of Michigan. (App. 16a)

STATEMENT OF JURISDICTION

The Sixth Circuit issued its en banc opinion on March 31, 2005. This Petition for Certiorari is timely in that Petitioner has filed it within 90 days of March 31, 2005. The Court has jurisdiction pursuant to §28 U.S.C. 1254(1).

STATUTORY PROVISIONS INVOLVED

This case involves the interpretation and application of the Labor Management Reporting and Disclosure Act, 29 U.S.C. §411 et. seq.

29 U.S.C. §411(a)(h) – (a)(2) reads:

"(a) (1) Equal rights

Every member of a labor organization shall have equal rights and privileges within such organization to nominate candidates, to vote in elections or referendums of the labor organization, to attend membership meetings, and to participate in the deliberations and voting upon the business of such meetings, subject to reasonable rules and regulations in such organization's constitution and bylaws.

(2) Freedom of speech and assembly

Every member of any labor organization shall have the right to meet and assemble freely with other members; and to express any vies, arguments, or opinions; and to express at meetings of the labor organization his views, upon candidates in an election of the labor organization or upon any business properly before the meeting, subject to the organization's established and reasonable rules pertaining to the conduct of meetings: Provided, That nothing herein shall be construed to impair the right of a labor organization to adopt and enforce reasonable rules as to the responsibility of every member toward the organization as an institution and to his refraining from conduct that would interfere with its performance of its legal or contractual obligations.

29 U.S.C. §411(a)(5) reads:

(5) Safeguards against improper disciplinary action

No member of any labor organization may be fined, suspended, expelled, or otherwise disciplined except for nonpayment of dues by such organization or by any officer thereof unless such member has been (A) served with written specific charges; (B) given a reasonable time to prepare his defense; (C) afforded a full and fair hearing."

STATEMENT OF THE CASE

I. Overview of the case

The Sixth Circuit held that the District Court properly dismissed Petitioner's claims that he was unlawfully

disciplined in violation of the Labor Management Reporting and Disclosure Act 29 U.S.C. §411(a)(2) – (5) finding that Defendants' conduct and treatment of Petitioner did not rise to the level of prohibitive discipline set forth in the Act. The en banc petition for rehearing was denied. The legislative history and congressional intent of 29 U.S.C. §411(a)(2) – (5) suggests that the meaning of unlawful discipline by labor organizations is not exhaustive or patently clear and remains an important questions of federal law.

II. Background of the case

The Sixth Circuit panel affirmed the District Court's grant of Defendants' motions for summary judgment holding that Petitioner offered no proofs to create a genuine issue of material fact as to any of the allegations in his second amended complaint, i.e., (1) violation of the Labor Management Reporting and Disclosure Act, (2) injurious falsehood, (3) intentional infliction of emotional distress, and (4) continuing acts of defamation and retaliation.

Richard Webster worked at Daimler-Chrysler, Mound Road Engine Plant for 35 years and held several elected union positions UAW 51 Local Union. He was outspoken about contract issues affecting his constituency.

In 1997, Webster refused to sign the 1997 settlement agreement with Chrysler because it meant job loss for his constituents at the Mound Road Engine Plant. News reporters asked Webster why he had walked out and Webster stated that International Union had "sold out" the membership. A 28-day strike followed. International Union officials put on the spot by Webster's truth-telling caused some of the nigh-raking Chrysler officials to publicly accused others of falsehoods.

After Webster's walkout in 1997 he was the target of reprisals, rejection, lies, threats, cartoons, humiliation, slander, libel, deprivation, ostracization by the named defendants. (JA 553-554)

In October 1998, a former UAW Local 51 President was removed for misappropriation of that unions' funds because of an investigation prompted by Webster. In a UAW Local 51 executive board meeting in October 1998, Webster raised the issue of financial improprieties of then UAW Local 51 recording secretary, Michael Kirksey. Webster never called Kirksey "a thief" in that board meeting, but was later sued by Kirksey for defamation. (JA 557).

In November 1998 at a general membership meeting of UAW Local 51, Webster presented financial reports which clearly showed Kirksey had received lost time pay for a period when he was on disciplinary layoff. A motion to investigate Kirksey was made by the membership. Financial reports of UAW Local 51 confirmed that Kirksey had received lost time pay in violation of the UAW Local 51 bylaws and the constitution. (JA 882, 888)

In deposition International defendant Stan Geis testified that he reviewed Kirksey's vouchers and pay stubs and found no impropriety. The Kirksey vouchers indicated Kirksey had received lost time pay August 21, 24 and 27, 1998 for attending elections hearings. There were no election hearings in 1998. (JA 891-900). Geis testified that he had meet with Kirksey to discuss allegations of financial impropriety in January and March 1999. Kirksey, in his lawsuit for defamation against Webster, testified that he had only met Geis once on March 10, 1999 at a UAW Local 51 board meeting.

In June, 1999 Michael Kirksey sued Webster and his co-worker friends for defamation, et al, relying upon a letter of exoneration given to him by Defendants, Stan Geis. (JA 872-878).

In 1999 Webster and the named UAW Local 51 defendant, were members of the Bargaining Committee of defendant UAW Local 51 union. The defendant Bargaining Committee and Chrysler management had no face-to-face negotiations but only reports. In October 1999, the defendant's Bargaining Committee composed of Webster and the UAW Local 51 Defendants, never agreed to hold a ratification vote. (JA 557, 571-578). But a document entitled "Contract Highlights", compiled and distributed by the defendant Bargaining Committee members stated that the bargaining committee had agreed to a ratification vote. Webster, while a member of the Bargaining Committee knew nothing of the Committee's "Contract Highlights" document and simultaneously published a document entitled "Contract Lowlights". (JA 557, 580-581). Webster's "Contract Lowlights" document reported the negotiations between the UAW Local 51 and Chrysler management. The "Lowlights" document did not urge a vote against the local settlement agreement. On October 27, 1999, the membership rejected the local agreement. Webster never campaigned against the local agreement, but his documents informed the membership of the bargaining committees responsibility to go back to the bargaining table after the no-vote on the local agreement. Thereafter, defendants began bombarding the general membership with negative literature, lies, posters, flyers, and cartoons about Webster. (JA 554, 588-593, 595-618). At the time of this personal attack of UAWS/Local defendants, Webster was not a candidate for any union election. The negative literature passed around about Webster by